

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Ryan Morrison, CFM, Associate Planner
Date: June 21, 2016
RE: ZP16-1225CA/CU; 410 North Street

Note: These are staff comments only. Decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

File: ZP16-1225CA/CU
Location: 410 North Street
Zone: RL **Ward:** 1E
Date application accepted: May 6, 2016
Applicant/ Owner: Scott A. & Margaret Gayle Goodwin
Parking District: Neighborhood
Request: Convert existing garage into an accessory apartment.



Applicable Regulations:

Appendix A (Use Table – All Zoning Districts), Article 3 (Applications, Permits, and Project Reviews), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 8 (Parking)

Background:

- Non-Applicability of Zoning Permit Requirements 15-0683NA; interior work only, no change in the number of residential units. December 2014.

Overview:

The applicant proposes to convert a portion of the existing garage into an accessory dwelling unit. The onsite parking area will also be revised to accommodate the required number of parking spaces.

Recommendation: Due to adverse findings under Section 8.1.11 and Table 8.1.11-1, **denial** is recommended.

I. Findings

Appendix A:

Accessory Dwelling Unit is a Permitted Use in the RL zoning district. **Affirmative finding.**

Article 3: Applications, Permits and Project Reviews

Part 5: Conditional Use and Major Impact Review

Section 3.5.6 Review Criteria

(a) Conditional Use Review Standards

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. *Existing or planned public utilities, facilities, or services are capable of supporting the proposed use in addition to the existing uses in the area;*

The addition of one new residential unit will have minimal impact on public utilities, facilities and services. A letter of confirmation from DPW will be required to assure adequate water and sewer capacity. **Affirmative finding if conditioned.**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the Municipal Development Plan;*

The property is within an established residential neighborhood and a residential zoning district. The RL zoning district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history. The MDP provides the following support:

- *Support the development of additional housing opportunities within the city...* (MDP, Housing Plan, Page IX-1.
- *Support the creation of new rental and owner-occupied housing on every parcel of land in Burlington that is zoned for residential development at the number of units allowed by zoning.* (MDP, Housing Plan, Page IX-12.) **Affirmative finding.**

3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

No greater impacts are anticipated than those other residential uses in the area.

Affirmative finding.

4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation, safety for all modes; and adequate transportation demand management strategies;*

This parcel fronts on North Street. With sidewalks on both sides, North Street provides adequate vehicular and pedestrian access to the surrounding neighborhood. **Affirmative finding.**

5. *The utilization of renewable energy resources;*

Nothing within the application prevents the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**
and;

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.*

The applicant will be required to secure a state wastewater permit, and any associated trades permits for interior work. **Affirmative finding if conditioned.**

(c) Conditions of Approval

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. *Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;*

Not applicable.

2. *Time limits for construction.*

There is a two-year time frame to complete the project.

3. *Hours of operation and/or construction to reduce the impact on surrounding properties.*

Not applicable.

4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions,*

The size of the proposed accessory dwelling unit is limited to 30% of the total habitable floor area of the building, inclusive of the accessory dwelling unit. Any additional physical alteration or change of use will require review and permitting under regulations in effect at that time. **Affirmative finding if conditioned.**

and

5. *Such additional reasonable performance standards, conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*
None identified.

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

(a) Purpose

1. The Residential Low Density (RL) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhood's development history.

An accessory dwelling unit to an existing single family residence is proposed.

Affirmative finding.

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W.

Single detached dwelling, RL Minimum 60' frontage, RL Minimum 6,000 sq ft lot size.

410 North Street is a long, narrow, 10,950 sq ft lot, with approximately 27 feet of frontage. The property's frontage is considered legally existing, non-conforming. **Affirmative finding.**

Table 4.4.5-2 Base Residential Density

Not applicable per Section 5.4.5 (a) below.

Table 4.4.5-3 Residential District Dimensional Standards

Maximum Lot Coverage – 35%.

The project only proposes a 0.3% change in lot coverage as a result of the parking area alterations. No other changes will occur to either lot or building footprints. After the driveway revisions, lot coverage will total 28.2%. **Affirmative finding.**

(c) Permitted and Conditional Uses

An accessory dwelling unit to a single family residential property is a permitted use per Appendix. A. See Above.

(d) District Specific Regulations

1. Setbacks

A. Encroachment for residential driveways

Not applicable.

B. Encroachment into the Waterfront Setback

Not applicable.

2. Height

No change. Not applicable.

3. *Lot Coverage*

A. *Exceptions for Accessory Residential Features*

No change. Not applicable.

4. *Accessory Residential Structures and Uses*

Not applicable.

5. *Residential Density*

A. *Additional Unit to multi-family*

Not applicable.

B. *Additions to Existing Residential Structures*

No additions are proposed. Not applicable.

C. *Residential Occupancy Limits*

In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13.

The residential occupancy provisions of the ordinance will apply to primary residence, and the Accessory Units, General Standards/Permitted Uses (Sec. 5.4.5 [a] - below) will apply to the accessory dwelling unit.

Affirmative finding if conditioned.

6. *Uses*

A. *Exception for Existing Neighborhood Commercial Uses*

Not applicable.

7. *Residential Development Bonuses*

No bonuses are sought. Not applicable.

Article 5: Citywide General Regulations

Section 5.1.1 Uses

See Appendix A, Use Table.

(c) Permitted Uses

Permitted uses are subject to such requirements as may be further specified, such as but not limited to dimensional and intensity limitations, performance and design standards, and parking requirements.

The proposed accessory dwelling unit will be required to comply with all applicable requirements.

(g) Accessory Uses

1. *Accessory Dwelling Units.*

Accessory dwelling units as mandated by 24 VSA 4412 (1) (E) shall be regulated as set forth in Sec. 5.4.5 CDO – see below. **Affirmative finding.**

Section 5.1.2 Structures

Aside from internal modifications to the existing garage, no changes are proposed to the existing residential accessory structure. Not applicable.

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2 Required Frontage or Access

410 North Street has approximately 27 feet of frontage, less than the minimum frontage requirement of 60 feet. The lot's frontage is considered legally existing, non-conforming

Affirmative finding.

Section 5.2.3 Lot Coverage Requirements

The maximum lot coverage allowance in the RL zoning district is 35%. After the modifications to the parking area, lot coverage will total 28.2%. **Affirmative finding.**

Section 5.2.4 Buildable Area Calculation

Not applicable.

Section 5.2.5 Setbacks

(a) Setbacks Required

No change. Not applicable.

(b) Exceptions to Yard Setback Requirements

4. Accessory Structures and Parking Areas

Parking areas may project into a required side or rear yard setback, provided they are no less than 5 feet from a side or rear property line where such a setback is required. The proposed parking area modifications will result in a setback of 5 feet from the west side yard property line. **Affirmative finding.**

6. Shared Driveways

Common or shared driveways along shared property lines and associated parking areas do not have to meet setback requirements along the shared property lines. **Affirmative finding.**

Section 5.2.6 Building Height Limits

No change. Not applicable.

Section 5.2.7 Density and Intensity of Development Calculations

Not applicable per Sec. 5.4.5 (a) below.

Section 5.4.5 Accessory Dwelling Units

(a) Accessory Units, General Standards/Permitted Uses

Where there is a primary structure on a lot which exists as an owner-occupied single family residence, one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, shall be allowed as a permitted use if the provisions of this subsection are met. An accessory dwelling unit means an efficiency or one bedroom apartment that is clearly

subordinate to the primary dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. No accessory unit shall be inhabited by more than 2 adult occupants. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation.

The proposed one-bedroom accessory dwelling unit will be located in an appurtenant structure. The floor plan identifies a bathroom, kitchen, and a living/sleeping space.

Additionally, there must be compliance with all the following:

1. *The property has sufficient wastewater capacity as certified by the Department of Public Works;*

The applicant will be required to secure a letter of adequate capacity from DPW for water and sewer services. **Affirmative finding if conditioned.**

2. *The unit does not consist of more than 30 percent of the total habitable floor area of the building, inclusive of the accessory dwelling unit;*

The main residence has 1,240 sf of habitable floor area. The proposal is to convert 429 sf of garage area into the accessory dwelling unit. When combined, habitable floor area will total 1,669 sf. $429/1,669 = 25.7\%$. **Affirmative finding.**

3. *Applicable setback and coverage requirements are met;*

See Section 5.2.5 (b) above. The site plan identifies a parking area setback of 5' from the side property line. Lot coverage, after additional parking area space is laid, will total 28.2%. **Affirmative finding.**

4. *One additional parking space which may be legally allocated to the necessary unit must be provided for the accessory unit;*

The site plan shows a total of 3 parking spaces, 2 for the main residence, and 1 for the accessory dwelling unit. **Affirmative finding.**
and

5. *A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit prior to the issuance of the certificate of occupancy for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.*

A condition of approval will ensure this. **Affirmative finding if conditioned.**

(b) Conditional Use Approval for Accessory Units

If any of the following are also proposed, conditional use approval, as well as development review provisions of Article 6 shall be required:

1. *A new accessory structure;*
The accessory dwelling unit will be located within an existing structure. Not applicable.
2. *An increase in the height of habitable floor area of the existing dwelling;*
No increase in height is proposed. Not applicable.
3. *An increase in the dimensions of any parking area.*
The dimension of the parking area will be increased as a result of this accessory dwelling.
Affirmative finding.

(c) Discontinuance of Accessory Units

Approval of an accessory dwelling unit is contingent on owner occupancy of the single-family dwelling unit as a primary residence. For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the primary unit or in the accessory unit. If either the primary unit or the accessory unit is no longer owner occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.

There are 2 individuals listed on the deed for the property: Scott A. Goodwin and Margaret Gayle Goodwin. The applicant, Scott Goodwin, states that it will be just himself residing on the premises. Margaret Gayle Goodwin will not reside on the property. Ms. Goodwin has indicated that she will remove herself from the property deed (see attached email dated June 8, 2016).

Affirmative finding if conditioned.

Section 5.4.8 Historic Buildings and Sites

Not applicable.

Section 5.4.9 Brownfield Remediation

Not applicable

Section 5.5.1 Nuisance Regulations

Nothing within the application suggests non-compliance with applicable nuisance regulations and performance standards per the requirement of the Burlington Code of Ordinances.

Affirmative finding.

Section 5.5.2 Outdoor Lighting

No changes proposed.

Section 5.5.3 Stormwater and Erosion Control

Not applicable.

Section 5.5.4 Tree Removal

Not applicable.

Article 8: Parking

Table 8.1.8-1 Minimum Off-Street Parking Requirements

Single family uses require 2 parking spaces in the Neighborhood Parking District. Section 5.4.5 (a) (4), above, sets the parking requirement of 1 space for accessory dwelling units. The site plan shows a parking area large enough to accommodate 3 parking spaces. **Affirmative finding.**

Section 8.1.11 Parking Dimensional Requirements

The standards in Table 8.1.11-1 below shall be used to ensure safe, adequate, and convenient access and circulation. These standards shall be adhered to except in situations where a lesser standard is deemed necessary by the DRB due to site topography, location of existing or proposed structures, lot configuration, and/or the need to preserve existing trees and mature vegetation.

Table 8.1.11-1 Minimum Parking Dimensions

The minimum parking dimensions for 90° angled parking spaces is 9' x 20', with a minimum back-up length of 24'. The site plan shows a parking area 27' wide by 20' deep – enough room to accommodate 3 parking spaces. However, the site is incapable of providing a full, on-site 24' back-up length for vehicles. When the remaining on-site land behind the parking spaces is combined with the 10' shared driveway, there is a total of 12' 5 ¼" of back-up space, just under half of the required 24' back-up length requirement. Additionally, the neighboring property to the east that shares the same driveway utilizes a parking area similar to the applicant's, and thus would prevent the applicant's ability to demonstrate a clear, 24' back-up length if, for example, an easement were to ever be granted. The intent of the minimum back-up length is so vehicles can turn around on-site and exit in a forward fashion. **Adverse finding.**

A precedent was set by the DRB under Zoning Permit 14-0405CA, for a similar proposal where inadequate parking facilities was proposed. Under that permit, the applicant requested to convert the 2nd floor of an existing carriage barn into a one-bedroom apartment, increasing the number of residential units on the site from one to two. The DRB denied the application on September 17, 2013, on the basis of inadequacy of required parking and circulation. The Findings of Fact for the zoning permit application stated "*The difficulty of accessing backyard space at a 90° angle to the drive and the property line and with virtually no space between the two is one severe limitation.*"

Section 8.1.12 Limitations, Location, Use of Facilities

(a) Off-Site Parking Facilities

Except for single and two-family dwellings, required parking facilities may be located on another parcel of land as follows.

The property is utilized for a single-family dwelling. The proposed accessory dwelling unit is an accessory use to the single-family dwelling. Not applicable.

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